

STATEMENT OF CONSIDERATION RELATING TO
907 KAR 15:005

Department for Medicaid Services
Amended After Comments

(1) A public hearing regarding 907 KAR 15:005 was not requested and; therefore, not held.

(2) The following individuals submitted written comments regarding 907 KAR 15:005:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Kathy Adams, Director of Public Policy	The Children's Alliance
Lisa Jagnow	Department for Behavioral Health, Developmental and Intellectual Disabilities, (DBHDID), Office of Mental Health and Substance Use Services
Natalie Kelly, Director	DBHDID, Division of Behavioral Health

(3) The following individual from the promulgating agency responded to comments received regarding 907 KAR 15:005:

<u>Name and Title</u>	<u>Organization/Agency/Other Entity</u>
Stuart Owen, Regulation Coordinator	Department for Medicaid Services

SUMMARY OF COMMENTS AND AGENCY'S RESPONSES

(1) Subject: Behavioral Health Services Organization Definition

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance recommended that a definition for behavioral health services organization be added to the administrative regulation.

(b) Response: Via an "amended after comments" version of this administrative regulation the Department for Medicaid Services (DMS) is adding a definition for "behavioral health service organization."

(2) Subject: Residential Crisis Stabilization Unit Definition

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance recommended that a definition for residential crisis stabilization unit be added to the administrative regulation.

(b) Response: Via an "amended after comments" version of this administrative regulation DMS is adding a definition for "residential crisis stabilization unit."

(3) Subject: Licensed Behavior Analyst

(a) Comment: Kathy Adams, Director of Public Policy for the Children's Alliance recommended that 'Licensed Behavior Analyst' be added under the definition of 'approved behavioral health services provider' as they are an authorized provider per Kentucky's Medicaid State Plan.

Lisa Jagnow and Natalie Kelly of the Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) also requested that licensed behavior analyst be added to the definition of approved behavioral health services provider.

(b) Response: Licensed behavior analysts are indeed authorized by the Medicaid state plan to provide behavioral health services; however, the term "approved behavioral health services provider" is used in 907 KAR 15:010, 907 KAR 15:020, and 907 KAR 15:070 primarily to identify the professionals who can supervise peer support specialists and the state plan does not authorize licensed behavior analysts to supervise peer support specialists.

If DMS amended the definition in 907 KAR 15:005 as requested it could also amend 907 KAR 15:020 and 907 KAR 15:070 to clarify that licensed behavior analysts cannot supervise peer support specialists as those two (2) administrative regulations are currently going through the promulgation process; however, 907 KAR 15:010 is not currently going through the promulgation process. As a result, if DMS added licensed behavior analyst to the definition of approved behavioral health services provider in 907 KAR 15:005, it would create a conflict between 907 KAR 15:010 and the state plan. As the state plan is the basis for DMS's receipt of federal funding, DMS does not wish to create such a conflict.

(4) Subject: Community Support Associate

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID also requested that a definition for community support associate be added to the administrative regulation as 907 KAR 15:020 uses the term but it is not defined in 907 KAR 15:005.

(b) Response: Via an "amended after comments" version of this administrative regulation DMS is adding a definition for "community support associate."

(5) Subject: Qualified Mental Health Professional

(a) Comment: Lisa Jagnow and Natalie Kelly of DBHDID also requested that a definition for qualified mental health professional be inserted into the administrative regulation as the term is used in 907 KAR 15:020.

(b) Response: DMS is changing the term in 907 KAR 15:020 from “qualified mental health professional” to “approved behavioral health services provider” which is defined in 907 KAR 15:005.

(6) Subject: Licensed or Certified Behavioral Health Practitioner

(a) Comment: Kathy Adams, Director of Public Policy for the Children’s Alliance noted that the phrase “licensed or certified behavioral health practitioner” is used in Section 3(2)(f)2.c.(iv) of 907 KAR 15:020 and that 907 KAR 15:005 defines “behavioral health practitioner under supervision” but does not define “behavioral health practitioner.” Ms. Adams suggested that the phrase be defined in 907 KAR 15:005.

(b) Response: Via an “amended after comments” version of this administrative regulation DMS is adding a definition for behavioral health practitioner.

SUMMARY OF STATEMENT OF CONSIDERATION
AND
ACTION TAKEN BY PROMULGATING ADMINISTRATIVE BODY

The Department for Medicaid Services (DMS) has considered the comments received regarding 907 KAR 15:005 and is amending the administrative regulation as follows:

Page 2
Section 1(3)
Line 12

After “(3)”, insert the following:

Behavioral health practitioner” means

- (a) A physician;
- (b) A psychiatrist;
- (c) An advanced practice registered nurse;
- (d) A physician assistant;
- (e) A licensed psychologist;
- (f) A licensed psychological practitioner;
- (g) A licensed clinical social worker;
- (h) A licensed professional clinical counselor;
- (i) A licensed marriage and family therapist;
- (j) A licensed psychological associate;
- (k) A marriage and family therapy associate;
- (l) A certified social worker;

(m) A licensed professional counselor associate;
(n) A licensed professional art therapist;
(o) A licensed professional art therapist associate; or
(p) A certified alcohol and drug counselor.
(4)

Page 2

Section 1(4)

Line 23

Before “(4)”, insert the following:

(5) “Behavioral health service organization” means an entity that is licensed as a behavioral health service organization pursuant to 902 KAR 40:230.
(6)

Delete “(4)”.

Page 3

Section 1(5), (6), and (7)

Lines 6, 20, and 22

Renumber these three (3) subsections by inserting “(7)”, “(8)”, and “(9)”, respectively, and by deleting “(5)”, “(6)”, and “(7)”, respectively.

Page 4

Section 1(8)

Line 1

Before “(8)”, insert the following:

(10) “Community support associate” means a paraprofessional who meets the application, training, and supervision requirements of 908 KAR 2:250.
(11)

Delete “(8)”.

Page 4

Section 1(9), (10), and (11)

Lines 2, 3, and 5

Renumber these three (3) subsections by inserting “(12)”, “(13)”, and “(14)”, respectively, and by deleting “(9)”, “(10)”, and “(11)”, respectively.

Page 4

Section 1(11)(b)

Line 7

After “(b)”, insert “If authorized by 907 KAR 3:170.”.

Page 4

Section 1(12), (13), (14), (15), (16), (17), (18), (19), (20), and (21)

Lines 8, 11, 12, 15, 16, 17, 19, 20, 21, and 23

Renumber these ten (10) subsections by inserting “(15)”, “(16)”, “(17)”, “(18)”, “(19)”, “(20)”, “(21)”, “(22)”, “(23)”, and “(24)”, respectively, and by deleting “(12)”,

“(13)”, “(14)”, “(15)”, “(16)”, “(17)”, “(18)”, “(19)”, “(20)”, and “(21)”, respectively.

Page 5

Section 1(22), (23), (24), (25), (26), (27), (28), and (29)

Lines 1, 2, 8, 11, 16, 19, 20, and 22

Renumber these eight (8) subsections by inserting “(25)”, “(26)”, “(27)”, “(28)”, “(29)”, “(30)”, “(31)”, and “(32)”, respectively, and by deleting “(22)”, “(23)”, “(24)”, “(25)”, “(26)”, “(27)”, “(28)”, and “(29)”, respectively.

Page 6

Section 1(30), (31), (32), (33), (34), (35), (36), (37), and (38)

Lines 1, 3, 4, 5, 6, 7, 11, 12, and 13

Renumber these nine (9) subsections by inserting “(33)”, “(34)”, “(35)”, “(36)”, “(37)”, “(38)”, “(39)”, “(40)”, and “(41)”, respectively, and by deleting “(30)”, “(31)”, “(32)”, “(33)”, “(34)”, “(35)”, “(36)”, “(37)”, and “(38)”, respectively.

Page 6

Section 1(39)

Line 14

Before “(39)”, insert the following:

(42) “Residential crisis stabilization unit” means an entity that is licensed as a residential crisis stabilization unit pursuant to 902 KAR 20:440.

(43) “Section 504 plan” means a plan developed to ensure that a child who has a disability identified under the law and is attending an elementary or secondary educational institution receives accommodations to ensure the child’s academic success and access to the learning environment.

(44)

Delete “(39)”.